

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES F. TRAMBLY,

Plaintiff,

vs.

THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA;
UNIVERSITY OF NEBRASKA-
KEARNEY; WALTER "TED" CARTER,
PRESIDENT OF THE UNIVERSITY OF
NEBRASKA, individually and in his
official capacity, DOUGLAS A.
KRISTENSEN, CHANCELLOR OF THE
UNIVERSITY OF NEBRASKA
KEARNEY, individually and in his
official capacity; HEIDI
HAUSSERMANN, individually and in
her personal capacity; JANE
PETERSEN, individually and in her
personal capacity; DYLAN EVANS,
individually and in his personal
capacity; JANE SHELDON,
individually and in her personal
capacity; DEB SCHROEDER,
individually; JILL FLAGEL,
individually and in her official
capacity; SCOTT BENSON, individually
and in his official capacity; CHERYL
GARDNER [sic], individually and in her
official capacity; JOHN DOE #1
through JOHN DOE #15; and JANE
DOE #1 through JANE DOE #15.

Defendants.

CASE NO. CV 20-3094

**NOTICE OF REMOVAL OF CIVIL
ACTION AND REQUEST
PLACE OF TRIAL**

Pursuant to 28 U.S.C. § 1441(a), Defendants hereby remove this case to the United States District Court for the District of Nebraska, and in support thereof state and allege as follows:

TIMELINESS OF REMOVAL

1. Plaintiff filed a civil action against Defendants in the District Court of Buffalo County, Nebraska on July 7, 2020. The case is entitled James F. Trambly v. Board of Regents of the University of Nebraska; University of Nebraska; University of Nebraska-Kearney; Walter “Ted” Carter, Jr., President of the University of Nebraska, Individually and in his official capacity; Douglas A. Kristensen, Chancellor of the University of Nebraska-Kearney, individually and in his official capacity; Heidi Haussermann, individually and her official capacity; Jane Petersen, individually and in her personal capacity; Dylan Evans, individual and in his personal capacity; Jane Sheldon; individually and in her personal capacity; Deb Schroeder, individually; Jill Flagel, individually and in her personal capacity; Cheryl Gardner [sic]; individually and in her personal capacity; John Doe #1 through John Doe #15; and Jane Doe #1 through Jane Doe #15; Case No. CI 20-346.

2. Plaintiff James F. Trambly served a copy of the complaint on all defendants by certified mail.

3. Cheryl Gardner¹ [sic], the last Defendant served, was served by certified mail on July 24, 2020.

4. True and complete copies of the process and pleadings received by Defendant Cheryl Garder [sic] are attached as Exhibit “A.”

BASIS FOR JURISDICTION

5. This Court has original jurisdiction over this action under the provisions of 28 U.S.C. § 1331 because Plaintiff asserts causes of action based on Americans with Disabilities Act (“ADA”) and the ADA Amendments Act of 2008. See 42 U.S.C. § 12117(a).

¹ Defendants assume named Defendant “Cheryl Gardner” is referring to Sheryl Gartner, the University of Nebraska’s Director of Human Resources.

6. This Court has supplemental jurisdiction over the claims brought under Nebraska state law under 28 U.S.C. § 1367(a) because they form part of the same “case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).

7. Defendants will file a true and correct copy of this Notice with the Clerk of the District Court of Buffalo County, Nebraska.

8. By filing this Notice, Defendants do not waive any defense and/or affirmative claims, counterclaims, or third-party claims that may be available to Defendants.

WHEREFORE, Defendants hereby remove the above-captioned case from the District Court of Buffalo County, Nebraska to the United States District Court for the District of Nebraska.

REQUEST FOR PLACE OF TRIAL

Pursuant to NECivR 40.1(b), Defendant requests that trial of this action take place in Lincoln, Nebraska.

Respectfully submitted,

BOARD OF REGENTS
OF THE UNIVERSITY
OF NEBRASKA, et al.
Defendants.

By: /s/Bren Chambers
Bren Chambers, NSBA #23150
Associate General Counsel
University of Nebraska
Varner Hall, Room 234
3835 Holdrege Street
Lincoln, Nebraska 68583-0745
(402) 472-1201 (voice)
(402) 472-2038 (facsimile)
bchambers@nebraska.edu

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, I electronically filed the foregoing with the Clerk of the United States District Court for the District of Nebraska and the same was electronically transmitted to Plaintiff's attorney of record, Joshua D. Barber, at joshuabarber@yahoo.com

EXHIBIT "A"

Filed in Buffalo District Court

*** EFILED ***

SERVICE RETURN

Case Number: D09CI200000346

Transaction ID: 003735890

Filing Date: 07/26/2020 04:43:19 PM CDT

BUFFALO COUNTY DISTRICT COURT

Buffalo County Courthouse

P.O. Box 520

Kearney

NE 68848 0520

To:

Case ID: CI 20 346 Trambly v. Board of Regents of Univ. of

Received this Summons on _____, _____. I hereby certify that on

_____, _____ at _____ o'clock ____ M. I served copies of the Summons
upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
(Sheriff or authorized person)CERTIFIED MAIL
PROOF OF SERVICE

Copies of the Summons were mailed by certified mail,

TO THE PARTY: Cheryl (Sheryl) GardnerAt the following address: 4911 S. 66th St.LINCOLN, NE 68516on the 16th day of July, 2020, as required by Nebraska state law.Postage \$ 7.10 Attorney for: Joshua D. Barber
PlaintiffThe return receipt for mailing to the party was signed on July 24, 2020.To: Cheryl Gardner
4911 S 66th St

Lincoln, NE 68516

From: Joshua D Barber
PO Box 4555
Lincoln, NE 68504-0555

ATTACH RETURN RECEIPT & RETURN TO COURT

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com™.

OFFICIAL

Certified Mail Fee \$ 3.55

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.85

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$.70

Total Postage and Fees \$ 7.10

Sent To Cheryl Gardner

Street and Apt. No., or PO Box No. 4911 S. 66th St.

City, State, ZIP+4® LINCOLN, NE 68516

PS Form 3800, April 2015 PSN 7530-02-000-0047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Cheryl Gardner
4911 S. 66th St.
LINCOLN, NE 68516

2. Article Number (Transfer from service label)
7017 1450 0001 2858 3932

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

COMPLETE THIS SECTION ON DELIVERY

A. Signature Cheryl Gardner ☐ Agent ☒ Addressee

B. Received by (Printed Name) _____

C. Date of Delivery 7/28/20

D. Is delivery address different from item 1? ☐ Yes
 if YES, enter delivery address below: ☐ No

3. Service Type
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

Certificate of Service

I hereby certify that on Tuesday, July 28, 2020 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Flagel,Jill, service method: No Service

Schroeder,Deb, service method: No Service

Kristensen,Douglas,A service method: No Service

Board of Regents of Univ. of Nebr. service method: No Service

Benson,Scott, service method: No Service

Sheldon,Jane, service method: No Service

Gardner,Cheryl, service method: No Service

Petersen,Jane, service method: No Service

University of Nebr. Kearney service method: No Service

University of Nebraska service method: No Service

Haussermann,Heidi, service method: No Service

Evans,Dylan, service method: No Service

Carter,Walter,,Jr. service method: No Service

Signature: /s/ Joshua Barber (Bar Number: 22624)